

## GOVERNMENT OF ANDHRA PRADESH

### ABSTRACT

P.S. – Irrigation & C.A.D. Dept., - Sri N.Viswanatham, Deputy Executive Engineer (Retd), - Unauthorized absence from duty and associated in private Business – Articles of charges issued - Departmental enquiry conducted – Major Punishment of 100% cut in pension and gratuity was imposed – Modification Orders – Issued.

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### IRRIGATION & C.A.D. (SER.IV.2) DEPARTMENT

**G.O.Ms.No. 35**

**Dated 03.03.2012.**  
**Read the following:**

1. ENC procds.No.Rc/ENC/K2/41789/96, dated 16.4.99.
2. ENC procds.No.Rc/ENC/SII2/16177/03-6, dated 22.05.2004.
3. ENC procds.No. Rc/ENC/SII2/16177/03, dated 22.9.04.
4. S.E., I.C., Nizamabad & Enquiry Officer Letter No.S1/EC4 /Confdl/135, dated 23.3.2005.
5. ENC Letter No. Rc/ENC/SII2/16177/03-14, dated 21.5.05.
6. Govt. Memo No.22676/Ser.IV.2/05-1, dated 27.9.05.
7. ENC Memo No.Rc/ENC/SII (2)/1617703, dt 4.2.06 , 24.4.2006..
8. The Representation of Sri N.Viswanatham, Dy.E.E., dated 19.04.2006 and 22.6.2006.
9. G.O.Ms.No.9, Irrigation & C.A.D. (Ser.IV) Department, dated 31.01.2008.
10. Hon'ble A.P.A.T. order, dated 15.03.2011 in O.A.No.3512 of 2008 filed by Sri N. Viswanatham, D.E.E. (Retd).
11. Hon'ble High Court judgement, dated 13.09.2011 in W.P.No.25396 of 2011 filed by Government.

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### **ORDER:**

In the reference 1<sup>st</sup> read above, the Engineer-in-Chief (A.W.) has informed that Sri N.Viswanatham, A.E.E., (now D.E.E.), while working as A.E.E., in Special Designs Circle, Hyderabad was unauthorizedly absent from duty from 11.11.1980 to 15.11.1996. After conducting enquiry, final orders were issued imposing the punishment of stoppage of 1 (one) increment with cumulative effect for his misconduct under Rule 9 of APCS (CC&A) Rules, 1991, besides treating the period of his unauthorized absence from 11.11.80 to 15.11.1996 AN as "Dies-non" under FR18.

2. In the reference 2<sup>nd</sup> read above, the Engineer-in-Chief (AW) has issued articles of charges to Sri N.Viswanatham, D.E.E., on the allegations that the individual was engaged in private business during his unauthorized absence under Rule 20 of A.P.C.S.(CC&A) Rules, 1991.

3. In the reference 3<sup>rd</sup> read above, the Engineer-in-Chief (AW) has appointed Sri N.Anandam, Superintending Engineer, Irrigation Circle, Nizamabad as Enquiry Officer to conduct enquiry on the charges framed against Sri N.Viswanatham, Deputy Executive Engineer, sub division No.3 (Civil) Singur of Irrigation Circle, Nizamabad.

4. In the reference 4<sup>th</sup> read above, the Enquiry Officer, after conducting the enquiry has submitted his enquiry report. In his report, the Enquiry Officer has opined that, the petitioner alleged against the accused officer purely on personal grudge, and he may be pardoned as there is no direct involvement in the

business, as it being like moral support to the family in a crucial time. The Enquiry Officer has suggested that he may be warned not to accept such assignment in his future service as he is due to superannuation in March, 2007.

5. In the reference 5<sup>th</sup> read above, the Engineer-in-Chief (AW) has disagreed with the findings of the Enquiry Officer and submitted the Enquiry Report to Government with a request to communicate instructions, if any to conclude disciplinary proceedings.

6. In the reference 6<sup>th</sup> read above, the Government have issued orders for accepting the E-in-C's report to deviate the findings of the Enquiry Officer and permitted him to impose a major penalty of dismissal from service on Sri N. Viswanatham, D.E.E., for his misconduct as the E-in-C(AW) is the competent authority up to Deputy Executive Engineer.

7. In the reference 7<sup>th</sup> read above, the Deputy Executive Engineer has been informed that the disciplinary authority disagreed with the findings of the Enquiry Officer as the Deputy Executive Engineer was actively associated with a private company during his unauthorised absence and the reasons furnished by the Deputy Executive Engineer are misleading and concealed the fact and directed him to submit his explanation.

8. In the reference 8<sup>th</sup> read above, the Deputy Executive Engineer has submitted his explanations wherein he has requested to take lenient view and drop further action against him.

9. In the reference 9<sup>th</sup> read above, after following due procedure, in vogue orders were issued, imposing a penalty of 100% cut in pension and gratuity on Sri N. Viswanatham, D.E.E (Retd) under Rule 9 of A.P.R.P. Rules 1980 for his misconduct and violation of Rules 10 and 11 of A.P.C.S. (Conduct) Rules, 1964.

10. Aggrieved by the above orders, the individual has filed O.A.No.3512 of 2008 in A.P.A.T. In the reference 10<sup>th</sup> read above, the Hon'ble A.P.A.T. in its final orders dated 15.03.2011 has made following:-

"In the result, the O.A. is allowed in part. The order of the 1<sup>st</sup> Respondent in finding the applicant guilty of the charges is confirmed. The punishment of 100% cut in pension is modified to that of 50% cut in pension. The Respondents are directed to release the pensionary benefits, if any, payable to the applicant as per Rules. No order as to costs."

11. Government after careful examination of the orders of A.P.A.T. in O.A.No.3512 of 2008, preferred an appeal before the Hon'ble High Court of A.P. Accordingly, W.P. No.25392 of 2011 was filed before the Hon'ble High Court on the orders of the Hon'ble A.P.A.T.

12. The Hon'ble High Court of A.P. while dismissing the W.P. No.25392 of 2011 filed by Government, has made the following orders:

"There is no dispute that the applicant was permitted to join service on 15.11.1996 whereafter he was promoted as Deputy Executive Engineer. The unauthorized absence from 11.11.1980 to 15.11.1996 was meted with prompt enquiry and punishment of stoppage of one increment with cumulative effect treating the period of unauthorized absence as "Dies-Non". This happened in April, 1999. Nothing prevented the Government or E-in-C to initiate enquiry with regard to the charges framed subsequently. It was only after lapse of about eight (8) years that the article of charges were framed on 22.05.2004 into the allegations that the applicant was engaged in the business during the unauthorized absence. This is certainly a mitigating factor, which cannot be ignored. After obtaining explanation to the show cause notice proposing

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punishment of dismissal, the Government did not consider this aspect of the matter. A perusal of G.O.Ms.No.9, dated 31.01.2008 would show that except referring the history of the case of the applicant, there is no application of mind at all. The learned Tribunal, on the contrary, considered the matter in detail and “with a view to meet the ends of justice”, modified the punishment. The exercise of discretion, in the background of this case, in our considered opinion, is sound and does not warrant any interference”.

13. Government after careful examination of the entire issue, have decided to comply with the Judgement of Hon’ble High Court in W.P.No.25396 of 2011 filed by Government. Accordingly, Government hereby modify the orders issued in the reference 9<sup>th</sup> read above imposing punishment of 100% cut in pension and gratuity reducing the same to 50% cut in pension, on Sri N.Vishwanatham, Deputy Executive Engineer (Retired.) under Rule 9 of Andhra Pradesh Revised Pension Rules, 1980 for his misconduct and violation Rules 10 & 11 of APCS (Conduct) Rules, 1964.

14. The Engineer-in-Chief (AW) Irrigation and C.A.D. Department, Hyderabad shall take necessary further action accordingly.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**SHAILENDRA KUMAR JOSHI  
PRINCIPAL SECRETARY TO GOVERNMENT**

To

Sri N. Vishwanatham, Deputy Executive Engineer (Retd), Irrigation & C.A.D. Dept., through E-in-C (AW), Irrigation & C.A.D. Dept., Hyderabad.

The Engineer-in-Chief (AW), Irrigation & CAD Department, Hyderabad.

Copy to the Secretary, A.P.P.S.C., Hyderabad.(for information)

Copy to the Accountant General, A.P., Hyderabad.

Copy to the Pay & Accounts Officer, Hyderabad.

SF/SC.

**// FORWARDED :: BY ORDER //**

**SECTION OFFICER**